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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SATISH DOSHI, Individually and on Behalf of
All Others Similarly Situated,

Plaintiffs,

v.

GENERAL CABLE CORPORATION, et al.,

Defendants.

ECF CASE

Case No. 13-cv-7409

[Rel. Case No. 13-cv-8634 (RA)]

CITY OF LIVONIA EMPLOYEES'
RETIREMENT SYSTEM, Individually and on
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

GENERAL CABLE CORPORATION, et al.,

Defendants.

ECF CASE

Case No. 13-cv-8634

[Rel. Case No. 13-cv-7409 (RA)]

**DEFENDANTS' RESPONSE TO MOTION
FOR CONSOLIDATION OF RELATED ACTIONS, APPOINTMENT
AS LEAD PLAINTIFF AND APPROVAL OF SELECTION OF COUNSEL**

Defendants General Cable Corporation, Gregory B. Kenny, and Brian J. Robinson (“Defendants”), by and through their attorneys, Morgan, Lewis & Bockius LLP, hereby submit their response to the “Motion for Consolidation of Related Actions, Appointment as Lead Plaintiff and Approval of Selection of Counsel,” dated December 20, 2013, Dkt. No. 18 (the “Lead Plaintiff Motion”) by Plaintiff City of Livonia Employees’ Retirement System (the “City of Livonia”).¹

Defendants have moved to transfer both *Doshi v. General Cable Corp., et al.*, No. 13-cv-7409-RA (“*Doshi*”), and the related case, *City of Livonia Employees’ Retirement System v. General Cable Corp., et al.*, No. 13-cv-8634-RA, to the United States District Court for the Eastern District of Kentucky, pursuant to 28 U.S.C. § 1404(a). See “Motion to Transfer,” dated December 10, 2013, Dkt. No. 9, filed in *Doshi*; “Motion to Transfer,” dated December 10, 2013, Dkt. No. 5, filed in *City of Livonia Employees Ret. Sys. v. General Cable Corp., et al.* (collectively, the “Motions to Transfer”). Defendants respectfully submit that the Court should defer deciding the City of Livonia’s Lead Plaintiff Motion until after deciding Defendants’ Motions to Transfer. If the Court grants Defendants’ Motions to Transfer, the transferee court can then decide the City of Livonia’s Lead Plaintiff Motion. Laborers Local 100 and 397 Pension Fund v. Bausch & Lomb Inc., Nos. 06-cv-1942, et seq., 2006 WL 1524590, at *1 (S.D.N.Y. June 5, 2006) (noting that decision on a lead plaintiff had been stayed pending decision on a motion to transfer); In re Choice Hotels. Inc. Sec. Litig., Nos. 07-cv-00734, et seq., 2008 WL 793621, at *3 (D. Colo. Mar. 24, 2008) (“I conclude that the appointment of a lead

¹ The “Motion by Satish Doshi for Consolidation of Related Cases, Appointment as Lead Plaintiff and Approval of Counsel,” dated December 20, 2013, Dkt. No. 16, filed in *Doshi*, has been withdrawn. See “Notice of Withdrawal of Lead Plaintiff Motion,” dated January 3, 2014, Dkt. No. 23, filed in *Doshi*. The “Motion of Allen Hager to Consolidate Related Actions; for Appointment as Lead Plaintiff; and Approval of Lead Counsel,” dated December 20, 2013, Dkt. No. 13, filed in *Doshi*, has also been withdrawn. See “Notice [of] Withdrawal of Lead Plaintiff Motion of Allen Hager,” dated January 3, 2014, Dkt. No. 24, filed in *Doshi*.

plaintiff and lead counsel is best determined after this case has been transferred to the District of Maryland”; denying motion for appointment of lead plaintiff and lead counsel without prejudice); Hanrahan v. Hewlett-Packard Co., No. 05-cv-02047, 2006 WL 1699573, at *2 (N.D. Cal. Jun. 16, 2006) (noting that the court where case originally brought had deferred ruling on the lead plaintiff motion until after resolution of defendants’ motion to transfer, and plaintiff subsequently renoticed motion for lead plaintiff in transferee court).

Defendants otherwise take no substantive position with respect to the City of Livonia’s Lead Plaintiff Motion, but reserve their right to contest class certification at the appropriate time on any and all grounds including, but not limited to, the adequacy and typicality of the lead plaintiffs. See, e.g., Ellenburg III v. JA Solar Holdings Co. Ltd., 262 F.R.D. 262, 267 (S.D.N.Y. Apr. 17, 2009) (“At the lead plaintiff stage of the litigation, in contrast to the class certification stage, a lead plaintiff movant need only make a preliminary showing that it satisfies the typicality and adequacy requirements of [Fed. R. Civ. P. 23] The defendants may of course challenge at the class certification stage whether each of the requirements of Rule 23 has been established.”) (citations and quotations omitted); In re Lucent Technologies, Inc. Sec. Litig., 221 F. Supp. 2d 472, 486, n.18 (D.N.J. 2001) (“The opportunity for Defendants to contest, if appropriate, class certification on the [] grounds [that the lead plaintiff fails to meet the requirements of Fed. R. Civ. P. 23] is preserved.”).

Dated: New York, New York
January 10, 2014

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By: /s/ Bernard J. Garbutt III

Bernard J. Garbutt III (BG-1970)

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served by ECF true and correct copies of Defendants' Response to Motion for Consolidation of Related Actions, Appointment as Lead Plaintiff and Approval of Selection of Counsel, on January 10, 2014, upon:

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